

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN DICK HAINES**, on February 8, 2001 at 8:30 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Dick Haines, Chairman (R)
Sen. William Crismore, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Linda Nelson (D)
Sen. Bill Tash (R)
Rep. Joe Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Becky Beckert-Graham, OBPP
Amber Sauer, Committee Secretary
Doug Schmitz, OBPP
Todd Younkin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Department of Commerce
Executive Action: Department of Commerce:
Weights and Measures Bureau,
Banking and Financial
Institutions Division,
Professional Occupation
Licensing Division, and
Research and Commercialization
Division

Information sheets on the growth in certain programs
EXHIBIT (jnh32a01), a decision package spreadsheet

EXHIBIT(jnh32a02), and a summary of Department of Commerce issues **EXHIBIT**(jnh32a03) were distributed.

{Tape : 1; Side : A; Approx. Time Counter : 0.3 - 8.8}

Mark Simonich, Director of the Department of Commerce, presented information on the dual mission of the Department, Economic and Community Development and Business and Consumer Regulatory Services. He reviewed the programs within the Department, which run the gamut from regulatory programs to promotional activities. The Economic Development side includes the tourism and travel promotion, international trade, economic development, housing, and the health facility program. Economic and community development provide for the type of development or infrastructure that strengthen communities. The regulatory side of the Department includes the professional and occupational licensing board, building codes, weights and measures, horse racing, the regulation of banking, consumer affairs for telemarketing fraud and the Lemon Law for vehicles, as well as local government assistance.

Mr. Simonich reviewed Department funding in the Department: general fund makes up 2.7% of the budget, state special revenue makes up about 14.4% of the budget, and federal funds make up nearly 74% of the budget, and there are statutory appropriation in a couple of different areas in the Department. Those statutory appropriations are not part of HB 2; those programs funded statutorily will present their programs to the Subcommittee over the next few days for full discussion.

Two specific department-wide funding issues are replacement of a server for the Department's computer services and the costs associated with consolidation of the programs into fewer locations. The Department will still be in three locations in Helena, but as the federal building is constructed and federal offices move out of the building at the head of Last Chance Gulch, the Department of Commerce is moving into that building. Part of the Department is there now, and the rest will be moving in over the next biennium, which means there will be moving costs involved. And, since the Department will be moving from state owned spaced to privately leased space, the rent will be higher than in the past. These are the department-wide issues that the Subcommittee will see from time to time in the various programs.

{Tape : 1; Side : A; Approx. Time Counter : 8.8 - 16.3}

Todd Younkin, LFD, mentioned that the rent was brought up by his office since rent is an issue that is running across state government as a whole. The Department, throughout administrative cost increases in each division, has added FY00 costs for each division's share of replacement of the server and related

hardware. He worked with Mr. Hoffman from the Central Management Division, and they have identified those costs and funds. If the Subcommittee desires, they can be pulled out into a one time only allocation, rather than doing it with each division. Therefore, those costs, for the server only in FY00, would not carry over into the base for the following biennium.

Mr. Simonich commented that they planned to go through the Department leaving the Director's Office and Management Services to the end. He suggested that as executive action is taken in each program when they hit the server related items, **Mr. Younkin** could indicate it, and they could move on. The Subcommittee could deal with it as a global motion in the Central Management portion, and the Department is agreeable to this being a one time only so that it does not go into the base.

CHAIRMAN HAINES said that they were ready for the divisions unless **Mr. Younkin** had anything else on the other issue. He mentioned that there was another agency-wide issue on consolidating the programs and case management and asked if it is not part of the same thing? **Mr. Simonich** said that there were moving costs and rent issues involved. **Mr. Younkin** said that he is not ready or proposing that they discuss it at this time, he has identified it in the Central Management Division budget. **Mr. Simonich** said that whereas the moving costs were one time, the rent is something that the Department would anticipate going into the base for each program.

HEARING ON WEIGHTS AND MEASURES

{Tape : 1; Side : A; Approx. Time Counter : 16.3 - 29.2}

Jack Kane, Weights and Measures Bureau Chief, said that he had no program discussion for Weights and Measures. In Montana, the Bureau of Weights and Measures is responsible for: the testing and inspection of all weighing and measuring devices used commercially; checking the net contents of pre-packaged goods; and ensuring the quality of fuel offered for sale meets the required standards. The goal of Weights and Measures is equity. It is not an advocate for either industry or consumers, but is a disinterested third party seeking equity in the market place.

The main function of this Bureau is the testing of weighing and measuring devices used commercially in the state, such as gas pumps, meters, weighing devices, and scales. One of the goals of the Bureau is to test, inspect, and certify all of these devices every year. **Mr. Kane** went over the various testing that is done; the equipment used in that testing; and the standards that should be met. He reviewed the work that the Bureau has done to help

producers put in place packing systems that meet the standard. He also detailed the octane testing system, and the success that the Bureau has achieved in this area.

He touched on the goals or overall objectives of the Bureau to: remove from use all unlicensed, inaccurate weighing and measuring devices; participate in the round robin exercises conducted by the National Institute of Standards and Technology; maintain the integrity of the mass and motor standards located in the Bureau's laboratory; calibrate on an annual basis all of the Bureau's field standards and on a semi-annual basis all registered services equipment; and to respond to every complaint registered with the Bureau.

Funding for the Bureau is entirely state special revenue, with the majority of revenue coming from annual license fees levied on all commercial weighing and measuring devices. The balance comes from special inspection fees charged for certification work at the Bureau's standards lab.

In response to a question, **Mr. Kane** said that large farm scales, mostly truck scales for farmers are included in the inspections. The Bureau also checks a little more than 1,600 livestock scales throughout the state. He explained some of the technological and cost improvements in those scales.

{Tape : 1; Side : A; Approx. Time Counter : 29.2 - 31.7}

Mr. Younkin reviewed DP 39 in Weights and Measures Bureau administrative costs, it is an increase in the state's special revenue authority from the Weights and Measures Bureau state special revenue. The administrative cost increases include overtime and the Division's share of the Department server replacement and indirect costs. **Mr. Younkin** stated that he has no concerns other than the server placement, which will be discussed in the Central Management Division. He recommended that the Subcommittee move the DP without addressing a specific dollar value. Later within the Central Management Division, it can be pulled out without having to go back to address specific dollar values.

EXECUTIVE ACTION ON WEIGHTS AND MEASURES BUREAU

PRESENT LAW ADJUSTMENTS:

{Tape : 1; Side : A; Approx. Time Counter : 31 - 31.7}

Motion/Vote: SEN. CRISMORE moved DP 39. Motion carried unanimously. REP. KAUFMANN voted aye by proxy.

{Tape : 1; Side : A; Approx. Time Counter : 31.7 - 51.5}

HEARING ON BANKING AND FINANCIAL DIVISION

Chris Olson, the Acting Commissioner for the Division of Banking and Financial Institutions within the Department of Commerce, began his review of Division activities and responsibilities. The Division charters and licenses and supervises or regulates a number of financial related businesses in the state. These include state chartered banks, trust companies, and credit unions, as well as consumer loan companies, sales finance companies, deferred deposit loan companies, and escrow companies. It also examines parts of the Board of Investments loan portfolio and will be responsible for regulating and examining the operations of foreign capital depositories that may be chartered in Montana. The Division also provides administrative support for the state banking board, which is responsible for considering applications for bank charters, foreign capital depository (FCD) charters, and handles appeals of administrative decisions that the Division may make.

All of the functions are statutorily mandated in Titles 31 and 32 of Montana Code Annotated (MCA) and the operations are entirely funded by assessments, fees, vehicle fees assistance regulations, and general fund. By law, each of the major programs administered must be self supporting. There is significant growth in the size of programs administered **EXHIBIT (1)**. Much of the growth in the current fiscal year banking program is the result of the acquisition of \$1.2 billion in assets from the conversion of federally chartered savings banks to state chartered savings banks. The growth has been higher than expected in the bank, consumer loan and deferred deposit loan categories. There is the potential for economies of scale in larger organizations and there have been improvements in technology in a variety of the examination software used, which has helped to increase overall efficiency. Despite the growth, there is not an anticipated need for staff.

Mr. Olson reviewed the three decision packages requested by the Division. DP 7 deals with travel expenses for the examiners. The request assumes a higher level of staff in those travel positions, and he is hopeful that vacant positions can be filled. DP 11 provides for replacement of department owned vehicles in the Billings office. The replacements will be leased from the Department of Transportation and kept at the Billings office, since Billings has no state motor pool facility to draw from. DP 40 provides for anticipated cost increases, including the replacement of laptop computers that the traveling examiners use. Advances in technology accommodate the growth in the programs.

Data is sent and retrieved from a database in Washington, DC, and there are data management programs, which allow the bank examiner to easily go through a bank's loan deposit information and reduce preparatory work. The Division has the second generation of examination software, but is not using it because its hardware does not have the capability to use this program, and those computers are only three years old at this point.

{Tape : 1; Side : B; Approx. Time Counter : 0.3 - 2.4}

Mr. Olson explained that the Division works cooperatively with the federal regulators from the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve System (FRS) and will be doing more of this as institutions become larger. In October 2001, a state law that prohibits interstate bank branching will sunset, and the Division expects that banks from other states will open branches in Montana, and that banks in Montana will open branches in other states. Since they will be sharing work with each other, the Division believes that it is vital that it has computer equipment that is capable of using the current software, which is the national standard. Within the office, the Division does follow state policy as far as replacement schedules go, but in this specialized area of examination, they believe that this request is appropriate.

The Division also has a language item dealing with foreign capital depositories that may be handled differently. **Mr. Younkin** stated that the only change he was recommending was an appropriation of \$500,000 in HB 2, using the language to restrict it.

{Tape : 1; Side : B; Approx. Time Counter : 2.4 - 8.9}

REP. TROPILA asked if the businesses that loan money for post dated checks and car titles are included in loan and sales finance companies? **Mr. Olson** said that they are not included in this category. Post dated checks are included in the deferred deposit loan companies, and the title lenders are licensed under the Consumer Loan Act. Pawn shops operate under the Pawn Shop Act.

In follow up, **REP. TROPILA** referred to **(EXHIBIT (1))** and asked why there were no examinations on 62 of the deferred deposit loan companies. **Mr. Olson** replied that the Deferred Deposit Loan Act was passed last session and became effective in October 1999. There have been staffing problems, and at the end of 1999, there were three people trained to do deferred deposit examinations, two of whom quit and the other was out because of medical problems for eight months during 2000. The 30 examinations that they are projecting in this year have been performed by other

examiners trained to do this as the opportunity presented. The employee that was on medical leave is back, also.

REP. TROPILA asked if they have had difficulty in filling positions? Is it the wages or finding qualified individuals?

Mr. Olson responded that it was a number of issues. This past year the job market has been tight, universities are graduating fewer business majors than in the past; salaries are a concern; and travel is a big concern. From March through October, the Division advertised almost continually for examiners, and received just 13 applications. They have been advertising again this year and have received only eight applications. **REP.**

TROPILA stated that they are estimating a lot more examinations in this fiscal year; how can they accomplish it without staff to do it? **Mr. Olson** explained that the current staff is well-seasoned, and the individual on medical leave last year is back. He expects that they will be able to make the examinations.

{Tape : 1; Side : B; Approx. Time Counter : 8.9 - 20s}

SEN. TASH asked what or who determines the on-site bank examinations? **Mr. Olson** responded that the Division works in cooperation with the federal regulators. Banks are subject to federal law, which has a frequency schedule that takes into account the size of the bank, condition of the bank, and age of the bank. Most of the banks in Montana are examined every 18 months, but new banks are examined more often and some are examined every year. The state examiners work cooperatively with the federal agencies to examine the largest institutions because neither the state nor the federal government has enough people by themselves. In follow up, **SEN. TASH** asked if there is any way to tag along with the federal government with technology as far as the federal and state inspections are concerned. **Mr. Olson** said that is what they are trying to do by sharing the same software. The last joint examination with federal reserve examiners was a problem because the federal examiners were on the current release of the examination software, and state examiners were and still are using the previous release. The Montana examiners had to do their work by hand and give it to the federal examiners to enter into the system.

SEN. NELSON referred to a statement by **Mr. Olson** that new banks are examined more often; are those new branches? **Mr. Olson** said that he was not talking about branches, but about the actual corporate entity of the bank. **SEN. NELSON** asked if there were many of those springing up? **Mr. Olson** replied that there has not been a lot of new bank activity in the last six years. The state banking board did meet on Tuesday, and approved a new charter for

a bank in Billings, but that is a conversion of a bank and will be a new institution to us.

Regarding capital depositories, **CHAIRMAN HAINES** asked what Colorado is doing that Montana is not? **Mr. Olson** responded that he does not know what Colorado's application looks like or what the nature of the business or capital depository (CD) they are proposing is. Colorado has been working on theirs since last June. The Department of Commerce received the application in November and requested additional time to prepare information for the board. **SEN. NELSON** asked if he is saying that Colorado had their application in longer? **Mr. Olson** said that his discussion indicated that they had the application in June and were working on it since then.

{Tape : 1; Side : B; Approx. Time Counter : 16.7 - 20}

Mr. Simonich referred to the Chairman's question about Colorado doing something that we are not and explained that Montana passed a law, and the banking board went through the effort to establish the rules in Montana. Montana did a lot of groundwork on this and Colorado adopted virtually the same law and rules, which saved them a lot of time, and they got their application in several months before Montana. While the press coverage indicated that they had approved that capital depository in Colorado, it is his understanding that it was approved with a number of conditions placed on it, and it will be six months before it will be able to accept deposits. The staff and banking board deserve credit because the Montana application was filed on November 1, and the staff completed the application in six days; the process took several months for Colorado to get through. **Mr. Olson** confirmed that Colorado copied just about everything that Montana did.

{Tape : 1; Side : B; Approx. Time Counter : 20 - 21.3}

CHAIRMAN HAINES said that he was disappointed that they had gotten their application in ahead of us, he was understanding that the application is out there, and it looks like it may come our way. **Mr. Olson** said that he cannot predict what the bank board will decide in its consideration.

{Tape : 1; Side : B; Approx. Time Counter : 21.3 - 26}

SEN. NELSON asked if there were applications in years past which had fallen through? **Mr. Olson** stated that they have never received an application from anyone else, but have talked to many people since the act was passed in 1997. Many have been interested, but until this application was received, there have been none. **SEN. NELSON** asked if the application is kept confidential? **Mr. Olson** responded that the only area of

confidentiality would be financial information, proprietary business information, and possibly a few other things. The bulk of the application, hearings, and transcripts are all public information.

{Tape : 1; Side : B; Approx. Time Counter : 25.8 -28.5}

REP. TROPILA asked if we will ever get anyone since the state has been waiting for three or four years. **Mr. Olson** responded that he has been told several times that there are other applicants waiting in the wings to see if this one will get through the process. Individuals representing this particular applicant have indicated that they have other clients waiting to see. **REP. TROPILA** asked if Colorado's applicants will have the same waiting period as we have experienced. **Mr. Olson** said that he is unsure since that application has taken a fair amount longer to get to approval, so he is hopeful that the application Montana still has in place will be attractive. **REP. TROPILA** stated that he hopes that with the change the Department has it will be pursued a little faster.

{Tape : 1; Side : B; Approx. Time Counter : 28.5 - 38}

SEN. TASH asked how the application fees in Montana compare with Colorado? **Mr. Olson** replied that he does not know this.

SEN. CRISMORE asked if they have done everything they can to get this on the fast track. **Mr. Olson** replied that as far as promoting the concept, Montana has done what it can without a professional marketing staff. The Division has spent a fair amount of money to promote the idea in large financial publications, which did generate a fair amount of interest. As far as the current application is concerned, it is proceeding as quickly as it can.

Mr. Simonich said the chairman of the banking board and he have committed to streamlining the process so that they can expedite future applications. The application process is pretty cumbersome and applicants may have had questions regarding what information is truly necessary, so the Division will work to improve this.

{Tape : 1; Side : B; Approx. Time Counter : 38 - 48.1}

In response to a question from **CHAIRMAN HAINES** regarding the computer software that they cannot use, **Mr. Olson** stated that the computers are three years old and do not have the memory or processor speed necessary for the current generation software. **CHAIRMAN HAINES** commented that he is concerned about this particularly because of the FCD situation, and asked if the

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Division is looking at the security involved in this as far as hackers are concerned.

Mr. Olson responded that security was the main concern with using computers in the first place. Regulators have been slow to adopt technology because they were unsure that security problems had been appropriately dealt with on the bank examination and credit union side. As far as the other CD's go, that is not a very computer intensive operation. There is a lot of risk; regulators and those that maintain the computer systems are very conscious of this, they have created a system with multiple layers of passwords. There are forms that are filled out at various times during the year to maintain access.

**EXECUTIVE ACTION ON DIVISION OF BANKING AND FINANCIAL
INSTITUTIONS**

PRESENT LAW ADJUSTMENTS:

Mr. Younkin referred members to page C-191 of the budget analysis and DP 7, examiner travel. He stated that he had no comments or issues on this budget proposal.

{Tape : 1; Side : B; Approx. Time Counter : 48.1 - 48.6}

Motion/Vote: SEN. NELSON moved TO ADOPT DP 7, EXAMINER TRAVEL.
Motion carried unanimously.

Mr. Younkin continued with DP 11, lease replacement vehicles. He had no issues or comments.

{Tape : 1; Side : B; Approx. Time Counter : 49.7 - 51.5}

Motion/Vote: SEN. NELSON moved TO ADOPT DP 11, LEASE REPLACEMENT VEHICLES. **Motion carried unanimously.**

{Tape : 2; Side : A; Approx. Time Counter : 0.3 - 7.2}

Mr. Younkin directed the Subcommittee to the LFD issue at the top of page C-192. He commented that **Mr. Olson** had spoken to the need for the computers and the fact that they were limiting the software used. He highlighted the costs of a three-year replacement cycle versus the recommended four-year cycle for computer equipment.

Mr. Olson stated that this is necessary for the bank examiner operations. In response to **SEN. NELSON**, **Mr. Olson** said that the need for a three-year versus four-year cycle is based on the software used. **Mr. Simonich** added his comments in support of **Mr. Olson** that it is essential to maintain the technology in order to compensate for other limitations that they may have.

In response to comments by **CHAIRMAN HAINES**, **Mr. Olson** stated that the Department will not be buying the absolute cutting edge machines, they will only project or lease what they need. It would be an advantage to be able to tell potential hires that they will be able to work side-by-side with the federal examiners and will not have to do it by hand.

{Tape : 2; Side : A; Approx. Time Counter : 7.2 - 8.8}

Motion: SEN. NELSON moved TO ADOPT DO 40, BANKING ADMINISTRATIVE COSTS.

Discussion: **Mr. Younkin** clarified the issue of lease further, stating that even if the Department turned over its computers on a four-year cycle the cost would be about \$1,800.

Vote: Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 9.0 - 11}

Mr. Younkin reviewed the language recommended by the Executive and the agency, which appropriates up to \$500,000 of state special revenue from the foreign capital depository in each year of the biennium. The LFD would recommend that if the Subcommittee does desire to appropriate this, a motion be made to appropriate the \$500,000 within the dollar figure of the Department; the language used is at the bottom of the decision package sheet **EXHIBIT (2)**. The language restricts the revenue only for the use intended and highlights the fact that only the amount gained can be spent.

{Tape : 2; Side : A; Approx. Time Counter : 11 - 25.4}

Motion: SEN. NELSON moved TO ADOPT THE LANGUAGE AS STATED BY LFD.

Discussion: **REP. TROPILA** asked how much the Department has expended on this over the years? **Mr. Olson** said that the Department has spent less than \$200,000 since the act became effective in 1997. **REP. TROPILA** asked why they need \$500,000 this time. **Mr. Olson** explained that if the depository and others actually open, there will be some costs incurred there. The appropriation is to cover the cost of processing the applications and making background checks. **Mr. Simonich** stated that it is similar to appropriation of funds in other Departments where spending authority is given in the event so that an applications can be processed. **REP. TROPILA** said that he agrees, but in other departments there are results, and the Subcommittee has not seen any here. He asked if there was a way to restrict the language.

Mr. Younkin stated the proposed language does this. The agency cannot transfer the special revenue authority for use elsewhere within the Division and can only spend it if there is an appropriate amount in corresponding fees that comes into the account for that purpose. It would not be specifically line itemed so would move into the base and would have to be highlighted next biennium to make it restricted. **Doug Schmitz, Office of Budget and Program Planning (OBPP)**, said that the uncertainty of incoming revenues is one reason for the language itself. This language provides the restrictions and/or limitations. If this is included in HB 2 as recommended by LFD, it will be included in the base unless restricted and one time only, which causes other problems in the process. He reiterated his affirmation that the language is itself limiting to **CHAIRMAN HAINES**.

Mr. Younkin clarified further that if were moved back to a straight language appropriation, it would come out of the base; his recommendation to appropriate the money within the Division, restricting the language would not keep it out of the base, however, the amount that would show up in the base is the amount that the agency actually spends. If the Subcommittee appropriates \$500,000 and the agency spends only \$2,000, then \$2,000 is the only amount that would show up in the base.

SEN. NELSON said that this sounds right; they just need to make sure it is a language appropriation. **Mr. Younkin** said that if the Subcommittee wants this to be a language appropriation, then the motion needs to be amended back to the language that is on page 192 of the budget analysis. In response to **CHAIRMAN HAINES**, **Mr. Younkin** said that he would obviously go with his recommendation and the motion as it is. **SEN. NELSON** asked why it could not be a language appropriation including the wording here, which is still considered a language appropriation using the portion about restrictions. **Mr. Younkin** stated that language appropriations are tougher to manage through the appropriation cycle since they do not show up in any bottom line. Revenue analysts then must go into the bill to pull them out. Either motion will appropriate it, and if the concern is to keep the appropriation out of the base, then he would recommend the language on page C-192.

{Tape : 2; Side : A; Approx. Time Counter : 25.3 - 26}

Substitute Motion/Vote: **SEN. CRISMORE** made a substitute motion **TO USE THE LANGUAGE ON PAGE C-192. Substitute motion carried unanimously.**

{Tape : 2; Side : A; Approx. Time Counter : 26 - 51.4}

HEARING ON PROFESSIONAL OCCUPATION LICENSING DIVISION

Steve Malloy, Administrator of Professional Occupation Licensing (POL) Division, gave a brief history of the Division and its movement from agency to agency and introduced his staff. He reviewed the diversity of his Division and its regulatory responsibilities. There are 34 boards and 4 programs in his Division which regulate most state professionals, with the exception of teachers, attorneys, and insurance agencies. The boards are autonomous and take administrative action, enact rules to promulgate statutes, and make policy. Over the past decade, some of these boards have had excessive cash balances, and through the urging of this Subcommittee, they have reduced their cash balances to a rate approved by the Legislature. The boards license over 80,000 individuals in a year. The programs are funded with special revenue so there are no ties with general fund, except some of the programs that fine deposit those monies in general fund.

In reference to the LFD comment on C-193, which discusses revenues, **Mr. Malloy** stated that they have identified the six boards that do not have adequate revenue to support the appropriation they are seeking today. Of those six, they have either raised their fees or have a fee increase in progress. The Division has boards reduce fees when their revenues are too high, so the boards actively adjust the fees accordingly. The fees are comparable to those in other states.

Mr. Malloy reviewed the decision package requests and the LFD issues involved. He went over the rent issue, computer upgrades, and indirect costs. He reviewed DP 13, a request for 2.5 FTE and DP 34, rent increases.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 48}

He went over the LFD issue on the incorrect allocation of funds from the earmarked alcohol fund to the chemical dependency licensing program. The Division has reallocated this and hopes that the Subcommittee will reduce the \$43,000 mistakenly allocated and readjust the allocations. The last three decision packages can be addressed if the recharge rate to the boards is moved in one fell swoop.

SEN. TASH asked if in reorganization there will be any significant change in this. **Mr. Malloy** responded that he is assuming that if they are moved to another Department, the budget would remain intact. They may even stay in the same building since they only moved six months ago, and it cost \$30,000. **Mr.**

Malloy responded to follow up from **SEN. TASH**, that if individual boards were moved to other Departments, it would effect the budget.

Mr. Schmitz said that there is a bill that will move the professional occupational licensing and boards to another Division. They are looking at moving entire work units and Divisions.

CHAIRMAN HAINES asked if they had investigated the possibility of having staff serve more than one board. **Mr. Malloy** said that is already done. The Legislature pooled all the boards into one Department in order to save money, and the management of the Division shifts staff back and forth. There are about 32 or 34 pool employees. If a board requires the work of 100% of an FTE, then the board hires that individual and pays that person directly. They try to do as many things consistently among the boards as possible.

CHAIRMAN HAINES asked what may have happened in the field of architecture, dentistry, and medical standards, which would generate the need for another 2.5 FTE? **Mr. Malloy** said that this would be caused by a board expanding programs, requiring more courses, or trying to stay state of the art; he gave specific examples.

SEN. CRISMORE asked who the boards work for. **Mr. Simonich** said that the members of the board are appointed by the Governor and can only be removed for cause. They work for the people and are attached to the Department for administrative purposes only. The board makes request of the Department when it needs staff or other resources. **Mr. Malloy** commented that the boards cannot hire or fire, that is a Department decision only.

SEN. TASH asked **Mr. Simonich** who defends the boards. **Mr. Simonich** said that there are staff attorneys within the Department who represent the board and defend its actions. They may also hire an attorney if necessary.

Mr. Younkin reviewed budget request DP 9, operating expenses, which includes \$70,000 in state special revenue authority each year of the biennium, the purpose of which is to reestablish the POL and Building Codes Division legal proceeding contingency fund. He recommends that when this is moved they highlight \$70,000 of state special revenue authority each year as restricted and one time only. Additionally, the earmarked alcohol funds should be reduced to the numbers at the bottom of C-194. They could move on the DP and make a subsequent motion to

line item \$70,000 as restricted one time only for the legal proceedings contingency fund. Last session, this amount was appropriated, and there was a line item, which pulled out the \$70,000 specifically. There was continued discussion with committee members on the issue of language, the \$70,000 amount, and whether it should be line item or not.

EXECUTIVE ACTION ON PROFESSIONAL OCCUPATION LICENSING DIVISION

{Tape : 2; Side : B; Approx. Time Counter : 48 - 49.9}

Motion/Vote: SEN. CRISMORE moved TO ADOPT DP 9 AS RESTRICTED, ONE TIME ONLY. Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 49.9 - 51.4}

Motion/Vote: SEN. TASH moved TO ADOPT DP 13. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 0.2 - }

Mr. Younkin explained that DP 34 is an adjustment to remove \$30,000 each year from state special revenue funds because it is being consolidated within the POL Division proprietary fund and the charges will be absorbed and redistributed.

{Tape : 3; Side : A; Approx. Time Counter : 0.8 - 1.1}

Motion/Vote: SEN. NELSON moved TO ADOPT DP 34. Motion carried unanimously.

Mr. Younkin said that the final issue in the POL Division is on C-197. The subcommittee needs to address the international services rate of 38% for FY02 and FY03 proposed by the Department. **Mr. Malloy** said that it reflects a 2.39% increase over the base. There are some significant increases: rent has gone up; the amount of work has gone up; there are equipment costs; and the amount of money paid to the Department to sustain its operation and management have gone up. There were questions regarding the need for a high speed printer for creating nice looking licenses and certificates. **Brenda St. Clair** said that the high speed printer creates a nicer looking product. They do not contract out the annual licenses since it is an internal product done with the information that they have, and it would not be economical to contract.

{Tape : 3; Side : A; Approx. Time Counter : 8.3 - 9.6}

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Motion/Vote: SEN. CRISMORE moved TO ADOPT 38% RATE. Motion carried unanimously.

HEARING ON MONTANA BOARD OF RESEARCH AND COMMERCIALIZATION

{Tape : 3; Side : A; Approx. Time Counter : 9.6 - 32.3}

Dave Desch, Executive Director of the Montana Board of Research and Commercialization Technology, distributed an overview of the board's work EXHIBIT(jnh32a04) and a compilation of projects submitted to the board EXHIBIT(jnh32a05). Mr. Desch reviewed the purpose of the program, which was created by the 1999 Legislature to encourage economic development through investment, research, and commercialization projects EXHIBIT (4). The Board provides funding for research projects either through the university system or private entities, and those research projects must have some commercial potential.

Mr. Desch reviewed: the goals of the program for the 2003 biennium; the funding resources; and the composition of the board, which makes all funding decisions. Mr. Desch summarized the statutes governing the board regarding eligibility of applicants and the criteria by which it determines whether it will fund research projects. He then went over the timelines for the program.

In reviewing the projects that have been submitted, Mr. Desch pointed out several examples from EXHIBIT (5) and went into their specifics, citing them as examples of the model that they are trying to promote with this program.

{Tape : 3; Side : A; Approx. Time Counter : 32.3 - 35.1}

REP. TROPILA commented that Montana State University (MSU) has received much of the funding. Mr. Desch stated that it is not surprising to him, since he expected that the lion's share of applications would come from the universities, and specifically from Bozeman. MSU was organized and worked hard to provide many applications. Several non-profits have applied, and the Board is very interested in the agricultural research stations throughout the state applying for funding. REP. TROPILA mentioned that the Division should not forget the McLaughlin Center, and Mr. Desch said that they had submitted an application as well. Mr. Simonich stated that these are the applications received, not necessarily those funded.

{Tape : 3; Side : A; Approx. Time Counter : 35.1 - 43.3}

REP. KAUFMANN mentioned that she considered encouragement of economic development as development of jobs eventually. She

asked if there is a tie between money going into research and jobs coming out at the end. **Mr. Desch** said that it is not as direct a link as in other programs, but there is a tie. It is the Board's charge to fund research projects with commercial potential. If there is direct interest of a private company, the commercialization aspect is clear and more direct, which is good for the project. Beyond this, it is difficult to make a direct connection. If there are two proposals before the peer review board and one looks as if it would create more jobs, that would be looked on favorably, but there other considerations as well.

REP. KAUFMANN asked if the money coming into the fund has already been appropriated; is there a trust fund or are they spending interest? **Mr. Desch** replied that the money managed by the Board of Investments is the interest on the coal tax trust, and it is invested by the board until the board makes the funding decision.

REP. KAUFMANN stated that the money is sitting there, and they will expend that and new money will come in from the trust, as opposed to the board having set up an additional trust. **Mr. Desch** said that money from the trust fund for next year will sit in that account if and until the time comes when the funding decision is made, at which time they will execute an agreement to disperse the funds. If it is not expended, it reverts to general fund.

{Tape : 3; Side : A; Approx. Time Counter : 43.3 - 47.7}

In response to a question from **SEN. TASH** regarding one of the projects, **Mr. Desch** said that there are several optics communication technologies, but he cannot speak more on that issue, and the McLaughlin request was for Alzheimer's research.

{Tape : 3; Side : A; Approx. Time Counter : 47.7 - 51.3}

SEN. CRISMORE asked when he expects that there will actually be some harvest from this money. **Mr. Desch** replied that the Board is employing the strategy to target some projects with a quick turnaround potential. Possibly, two years from now, the Board will be able to point to some sort of commercial growth as a result. Some of the projects will be long-term, and it will be a number of years before there will be some success. The Board is well aware of the importance to fund projects with commercial potential, particularly in the earlier years of the program, paying attention to projects with a shorter time horizon rather than long-term horizon.

{Tape : 3; Side : B; Approx. Time Counter : 0.3 - 3}

In response to a question from **SEN. TASH**, **Mr. Desch** cited the Indian rice grass project and the advisability of creating a

cooperative to help market the product. There is a direct, positive impact on Montana farmers with such a project.

{Tape : 3; Side : B; Approx. Time Counter : 3 - 11}

CHAIRMAN HAINES explained several research projects, which he had observed and had been explained to him, and the multiple benefits that had been derived from them for the state of Montana. He stressed the importance of private enterprise and the university system being able to work together for the benefit of the state. He said that he thinks it is a good program.

{Tape : 3; Side : B; Approx. Time Counter : 11 - 13.8}

There was further Committee discussion on the potential benefits to the state of research leading to commercial enterprise.

CHAIRMAN HAINES suggested that the Subcommittee continue with the decision packages.

EXECUTIVE ACTION ON RESEARCH AND COMMERCIALIZATION DIVISION

{Tape : 3; Side : B; Approx. Time Counter : 13.8 - 19}

Mr. Younkin briefly reviewed DP 1, which is solely for the funding of the operating expenses for the Board, and referred the Subcommittee to the LFD issue on C-199. **Mr. Schmitz** questioned the amount in the request. **Mr. Younkin** explained that he should add \$76,000 to statewide present law adjustments, and the actual cost in below for \$72,328 bringing it to a total of \$148,000. He further clarified, requesting members to look at the table atop page C-199. The global motion made at the beginning of the hearings to accept statewide present law adjustments plus vacancy savings, accepted that \$76,000 amount. In accepting DP 1, the Subcommittee would be accepting the other \$72,000 below that. Should the Subcommittee wish to adjust funding within the Board, it could go back and adjust funding tied to FTE, which would affect the \$76,000 also. That is why the decision package only has the \$72,000.

{Tape : 3; Side : B; Approx. Time Counter : 19 - 20.}

Motion/Vote: SEN. CRISMORE moved TO ADOPT DP 1. Motion carried unanimously.

CHAIRMAN HAINES adjourned the meeting.

ADJOURNMENT

Adjournment: 12:15 P.M.

REP. DICK HAINES, Chairman

SYDNEY TABER, Transcription Secretary

DH/ST

EXHIBIT (jnh32aad)